

California Consulting, LLC

October, 2008

Fresno COG Legislative Report

- **State and Local Partnership (SLPP) Prop. 1B:** Fresno County won a major victory on this issue. Senator Cogdill and Assemblyman Villines led the effort to include an amendment to the budget trailer bill on this topic. The budget trailer bill amendment we drafted and asked Mr. Villines and Mr. Cogdill to pursue changed the formula for distribution of the SLPP funds. See memo I sent dated Monday September 29, 2008. The amendment to the budget trailer (AB 268) for northern counties will now be based on population for counties that have transportation sales tax measures like ours, and by "return to source" for the northern counties that have bridge tolls, property, or parcel taxes. So Fresno County will be in the population allocation like we wanted. This money is non-competitive and given out on a formula. Our estimates are that under the previous formula Fresno County would have received **approximately \$15 million** in transportation funding. Under this new formula that was adopted with our amendment and signed as part of the budget Fresno County will **receive approximately \$23 million**. This amendment resulted in an approximately \$8 million boost to Fresno County transportation needs and was a very challenging amendment considering it was drafted and pushed for late in the session after the budget trailer bill had already been set to rest.

The SLPP victory was a team effort and demonstrates what we can do when we all work together. Senator Cogdill, Assemblyman Villines, Assemblyman Arambula, and Senator Florez all played key roles and supported inclusion of this amendment. Further, the Partnership and Jennifer Dansby from Fresno COG Staff worked closely with our office on this project. Again, this was a major victory for Fresno County in the budget.

- **SB 974 VETO:** The number one priority issue of Fresno COG this year was to amend or stop SB 974 the port container fee bill. See memo I sent dated Sept. 30, 2008 and www.sanjoaquinvalleyfornia.com article attached on the same topic. SB 974 was a major issue for the entire San Joaquin Valley and the

fact that the Governor mentions the Valley in his veto message demonstrates the effectiveness of our collective valley lobbying effort. Thank you to all of the cities, groups, and the County Board of Supervisors who sent letters in opposition to this bill. See my memo dated Oct. 3, 2008 that details and summarizes the issue.

- **Prop. 42 and Prop. 1A:** Based on various discussions and meetings in Sacramento we believe these items are now on the table for possible cuts and are possibly in jeopardy. Preserving the funding of Prop. 42 and 1A will be major tasks and priorities for us in next year's legislative session.
- **Medi-Cal Rate Reimbursement Issue:** Led by the City of Reedley an effort was organized to lobby against the proposed medi-cal rate reimbursement cuts. Two trips were organized by our office to Sacramento with several local elected and appointed officials. See reports sent September 20, 2008 and Sept. 24, 2008. Through intensive lobbying efforts and several meetings, conference calls and discussions the rate reduction was mitigated. A rural hospital exemption was put into place to limit the reduction to be in effect only until November 1. Several cities assisted us with our lobbying efforts, sent representatives on our trips and helped bring about this success. Sierra-Kings Hospital, Cities of Reedley, Parlier, Orange Cove, Selma, Sanger, Fowler, and Kingsburg all took leadership roles in this important issue. These cuts could not have been prevented without the capable assistance and diligence of Senators Cogdill and Florez and Assemblymembers Arambula, Galgiani, and Parra. We owe a debt of gratitude to these Valley legislators.
- **Grade Separation:** AB 660 by Assemblymember Galgiani assisted the Grade Separation issue. See memo I sent dated Sept. 24, 2008 that also includes a fact sheet about the bill. Ms. Galgiani did a fantastic job with this bill and the Governor signed it and it is now law.
- **Local Government Issues:** On Oct. 8, 2008 I forwarded a memo from the Senate Local Government Committee detailing the local government related bills and their status in this past Legislative session.

- *Visit of State Superintendent:* On September 16, 2008 we hosted a visit from State Superintendent of Public Instruction Jack O'Connell to Fresno. The luncheon was attended by many local elected officials and community leaders throughout the Valley. See Sept. 16 report I sent summarizing the event.

**Success on State and Local Partnership Prop. 1B**

Monday, September 29, 2008 2:36 PM

From: "steve samuelian" <ca-consulting@sbcglobal.net>**To:** "Carrol Terrazas" <carrol.ca-consult@sbcglobal.net>

Many of you have received numerous updates from our office regarding State and Local Partnership Prop. 1B funds. These are the funds from the November 2006 bond that are designated to reward "self-help" counties with a dollar for dollar match.

Last year the Legislature was unable to come to agreement on this issue although at least two major bills (one in the Assembly and one in the Senate) were offered.

A budget trailer bill (AB 268) was drafted this year to set the guidelines for the distribution of the State and Local Partnership monies. Once drafted our office was alerted to the fact that the language treated some valley counties, including Fresno County unfairly.

In a united, team effort, we worked with several entities including Fresno COG, other Valley COG's, Peter Weber, our legislative delegation and others to attempt to amend the budget trailer bill. We wanted to amend the language to allow for Fresno County to have a more fair allocation of the dollars. 95% of the State and Local Partnership monies are going to be distributed based on the formula in this budget trailer bill on a non-competitive basis. The remainder of the funds will be distributed to entities that levy uniform developer fees on a competitive basis.

Ultimately, thanks to our outstanding Fresno area state delegation (Cogdill, Florez, Villines, and Arambula) the budget trailer was amended with our language. Several meetings, e-mails, calls, and other discussions led up to this success. Again, this united team effort shows what we can do in Sacramento when we all work together!

AB 286 allows for the northern counties allocation to be based on population for counties that have transportation sales tax measures like Measure C. The return to source method would be used for the northern counties that have bridge tolls, property, or parcel taxes. So Fresno County will be in the population allocation like we wanted.

Through the work of these 4 legislators Fresno County stands to gain another \$7-\$8 million in transportation dollars from the SLPP program. Our original estimate of funds to Fresno County was about \$15 million and is now around \$23 million. Keep in mind these are estimates based on the formula allocation.

If you have an opportunity please let Senators Cogdill and Florez and Assemblymembers Villines and Arambula know how grateful you making this a reality. This was a big win for the Fresno area in the budget!

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Fw: SB 974 Veto Message - September 30, 2008

Friday, October 3, 2008 11:28 PM

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Thank you to everyone who participated in the lobbying effort to defeat this bill. This was a major victory for the Valley. All our meetings with the Governor's Office, faxing, conference calls, letters, trips to Sacramento, etc. paid off. This was a team effort with various Valley groups, individuals and leaders coming together to fight for these amendments and then push for the "veto" when our amendments were not adopted.

Hopefully this next year we can get a similar bill but with funding provisions for our region and other safeguards as mentioned in the veto message.

Our clients, Fresno COG gave our company this issue as their "#1 priority" issue for the Legislative year. I anticipate this issue will remain at or near the top of the list for 2009.

Attached is the Governor's veto message of SB 974.

To the Members of the California State Senate:

I am returning Senate Bill 974 without my signature.

This bill would impose a maximum fee of \$30 per twenty-foot equivalent unit on each shipping container processed in the Ports of Los Angeles, Long Beach and Oakland. The revenues would be used for two broad purposes: to alleviate congestion of the ports by funding projects to improve the flow and efficiency of the ports and to mitigate air pollution caused by the movement of cargo to and from the ports.

Improving the quality of life for all Californians through congestion relief and environmental mitigation has been one of my highest priorities, as evidenced by the introduction of my Strategic Growth Plan and the passage of the Proposition 1B transportation bond which I supported. Proposition 1B provides \$1 billion in new funding to improve air quality in California which will directly benefit the communities in and around the Ports of Long Beach, Los Angeles, and Oakland. The measure also provides \$1 billion to address port mitigation issues, \$2.1 billion for trade infrastructure, and \$100 million for port security funding.

Although the bill's policy objectives to provide additional funding for congestion relief and environmental mitigation are laudable, this measure is problematic in its implementation.

This bill does not provide necessary assurances that projects will achieve the greatest cost-effectiveness, emission reductions, and public health protection. Also, the bill does not adequately provide the San Joaquin Valley with access to funds to reduce pollution related to container cargo coming directly to and from the ports throughout the Valley.

Additionally, this bill would not provide any mechanism for the coordination and integration of infrastructure projects. As such, this bill would fail to provide long-term, strategic planning for the state's goods movement infrastructure. State and regional entities have already developed congestion relief and environmental mitigation plans, including the Goods Movement Action Plan and Emission Reduction Plan. Yet this bill would provide very little oversight to ensure compliance with these plans. In addition to lacking the coordination needed for long-term strategic growth, this bill misses the

opportunity to leverage billions of dollars in available funding through public-private partnerships, which could otherwise increase investments in infrastructure geometrically.

Given the current economic downturn, it is vitally important that the state does not worsen the situation by mandating added costs on business that do not provide any public benefit. Since this bill was introduced, container fees have been raised by the ports at a rate 67% higher than the fee contemplated in this bill to pay for many of the same programs. Careful consideration must be given to any proposed solution as to its potential impact to our state's economy.

I have been publicly supportive of the concepts in this bill for over a year. My Administration worked with stakeholders of all interests to craft a bill that I could sign into law. Unfortunately, the bill does not include amendments requested by my Administration that would address the critical shortcomings of this legislation. I encourage the Legislature to develop legislation that provides proper guidance, oversight and accountability, ensures that the San Joaquin Valley is eligible for funds to address port-related cargo pollution, and allows for varied congestion reduction infrastructure.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

SB 974 veto www.sanjoaquinvalleyfornia.com



SB 974 veto www.sanjoaquinvalleyfornia.com

Monday, October 6, 2008 9:48 PM

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Check out www.sanjoaquinvalleyfornia.com today. Again, thanks to everyone who helped us in this lobbying effort. Great job to all involved!

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San Joaquin Valleyfornia

October 2008

Valley victory in veto of ports bill

Former Assemblymember Steve Samuelian, currently the owner of California Consulting and lobbyist for the Fresno COG, informs us that Gov. Schwarzenegger mentioned the lack of funding for the San Joaquin Valley as one of the reasons he vetoed SB 974, the port container fee bill.

The legislation would have imposed a maximum fee of \$30 per twenty-foot equivalent unit on each shipping container processed in the ports of Los Angeles, Long Beach and Oakland. The revenue would have been used to alleviate congestion of the ports by funding projects to improve the flow and efficiency of the ports and to mitigate air pollution caused by the movement of cargo to and from the ports.

Valleyfornians had argued strongly that the Valley deserves funding since much of the cargo to and from the ports moves through our region, creating air quality and health concerns. In his veto message, the governor agreed.

"This bill does not adequately provide the San Joaquin Valley with access to funds to reduce pollution related to container cargo coming directly to and from the ports throughout the Valley ... I encourage the Legislature to develop legislation that provides proper guidance, oversight and accountability, ensures that the San Joaquin Valley is eligible for funds to address port-related cargo pollution, and allows for varied congestion reduction infrastructure," the governor wrote in his veto message.

Samuelian said the veto was a "major victory" for the Valley that resulted from a team effort.

"Without the efforts of leaders like Alan Autry, other Valley mayors and community leaders, this bill might have been signed," Samuelian said. "This was a united team effort lobbying against a bill that was unfair to the San Joaquin Valley, and everyone deserves recognition for their role in a broad and large coalition. It shows how successful the Valley can be when we are united."

Posted at 03:04 PM



Fw: RE: CHA Memo: Status of State Budget - 9-16-08

Saturday, September 20, 2008 12:31 AM

From: "steve samuelian" <ca-consulting@sbcglobal.net>

It looks "tentatively" like the rural hospitals were saved in this budget process. Budget is not yet signed. See below. If this is in the case, we have Senator Cogdill and Assemblyman Villines as two of the "Big 5" leaders to thank. They represent rural valley areas and really went to bat on this issue. Senator Florez and Assemblyman Arambula were also very helpful. It was a good team effort and example of our rural areas sticking together. This is not an issue that only helps the San Joaquin Valley but helps all small rural health clinics and hospitals statewide avoid major budget cuts. This was a very important issue for our office and our clients. These rural health care providers serve our underprivileged and most vulnerable populations. Steve

Read below from hospital assn.

On July 1st the 10% cut in rates went into effect for our hospitals as well as other Medi-Cal providers. So, Sierra King will see a 10% cut in their inpatient rate, but only until November 1st. At that time, the rural hospital exemption will take effect. As of November 1st they should no longer see a rate reduction for their Medi-Cal fee for service inpatient services, nor their outpatient services.

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Fw: RE: Question

Wednesday, September 24, 2008 5:13 AM

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Outstanding news below from Department of Health Care Services.....I verified this information during a meeting with Senator Cogdill's Chief of Staff in Sacramento yesterday.

Cogdill and Villines deserve a lot of credit for making this happen in "Big 5." Their leadership was incredible.

Arambula and Florez also did a fantastic job. This helps all small rural health care facilities in California and is a major victory for those facilities that serve underprivileged, high poverty, high unemployment, farmworker type patient populations.

Thank you to the Mayors and other leaders who attended the lobbying trip to Sacramento last month that our office organized regarding this issue. I believe the meetings made a big difference!

Steve Samuelian

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**RE: San Joaquin Valley Questions**

Tuesday, September 23, 2008 1:29 PM

From: "Vanessa Wiseman" <Vanessa.Wiseman@GOV.CA.GOV>**To:** ca-consulting@sbcglobal.net

Hey Steve,

We're finally starting to get details. The link to the electronic budget just went live:

<http://www.ebudget.ca.gov/Enacted/BudgetSummary/BSS/BSS.html>

This is the first time most in our office have actually had any sort of details about it.

In my initial perusal here are the details I found:

1.

HOSPITAL COST CONTAINMENT MEASURES

The Budget seeks to create incentives for hospitals to contract with the Medi-Cal program and with Medi-Cal managed care plans. To this end it limits fee-for-service Medi-Cal payments for inpatient care at hospitals that do not contract with Medi-Cal through the California Medical Assistance Commission (CMAC). Similarly, it limits the amount that participating plans must pay hospitals that are out of the plan's network for emergency services and for post-stabilization services provided to Medi-Cal beneficiaries. The limit would not apply to rural hospitals and hospitals in areas historically excluded from contracting and that have fewer than three general acute care hospitals. This change will generate \$17.5 million in General Fund savings.

3.

PROPERTY TAXES

The Budget reflects \$14.4 billion in school district and county office of education property tax revenues in 2008-09, an increase of \$1.0 billion over 2007-08. In general, increases in local property tax revenues decrease the amount of state General Fund costs for revenue limit apportionments. These estimates include the impact of redevelopment agency (RDA) pass-through provisions enacted with the Budget Act.

A recent report by the State Controller's Office found that RDAs have not been passing through the full amount of property tax increment revenues to local taxing jurisdictions, including local education agencies, required under current law. As a result, legislation is included with the Budget requiring RDAs to report all payments and obligations to local taxing jurisdictions for fiscal years 2003-04 through 2008-09 to the county auditor for verification. RDAs are required to remit any outstanding obligations to local taxing jurisdictions, except that monies owed to schools that offset state costs for apportionments are to be deposited in the county Educational Revenue Augmentation Fund. This transfer is estimated to be \$98 million in 2008-09.

This legislation also requires a one-time shift of \$350 million from RDAs to the county Educational Revenue Augmentation Fund in 2008-09. The shift will generate a commensurate amount of Proposition 98 General Fund savings. Each RDA will shift an amount proportionate to its individual share of statewide RDA tax increment revenues. RDAs with insufficient liquidity to fund the shift may borrow from their low-moderate income housing funds, from their organizing city or county, or from a joint powers agency.

4.

PROPOSITION 42

Proposition 42, enacted in March 2002, amended the State Constitution to transfer state sales taxes on gasoline, other than revenues calculated under the spillover formula, from the General Fund to transportation purposes beginning in 2003-04. The Budget reflects full Proposition 42 funding of \$1.4 billion, including \$573

million for STIP and \$286 million for the Public Transportation Account (PTA), as provided in existing law. In November 2006, Proposition 1A was enacted to limit the conditions under which Proposition 42 transfers can be suspended and require that all outstanding loans from Proposition 42 to the General Fund be repaid in annual increments by June 30, 2016. The Budget fully funds the 2008-09 \$83 million repayment.

Vanessa J. Wiseman

Field Representative

Office of Governor Arnold Schwarzenegger

2550 Mariposa Mall, Suite #3013

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Fax: (559) 445-5328

From: steve samuelian [mailto:ca-consulting@sbcglobal.net]**Sent:** Monday, September 15, 2008 10:51 AM**To:** Vanessa Wiseman**Cc:** Brenda Quintana**Subject:** San Joaquin Valley Questions

Vanessa,

We are getting several questions regarding the budget "deal".....here are some of the more important ones from clients:

1. What is the status of the proposed cut to medi-cal rate reimbursements for non-CMAC contracted hospitals?
2. What is the status of the proposed amendment valley COG's put forth to change the State and Local Partnership formula to "population" based?
3. How is RDA funding impacted by the budget deal?
4. Any changes to Prop. 1A or Prop. 42? I think the answer is no. Just want to verify.
5. Of course, all valley cities and COG's are asking for a veto of SB 974!

If you or Brenda can help, we would be very grateful. Thank you for your assistance.

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**AB 660 (Galgiani) Grade Separation Bill**

Wednesday, September 24, 2008 11:45 PM

From: "steve samuelian" <ca-consulting@sbcglobal.net>

I met with Assemblywoman Galgiani's office in Sacramento on Monday to discuss the attached bill referenced above and it is currently on the Governor's desk. Please fax your letters of support directly to the Governor's office ASAP at (916) 445-4633 with copies to Assemblywoman Galgiani at (916) 319-2117 and our office at (559) 244-0804.

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FACT SHEET

Assembly Bill 660 (Assemblymember Galgiani) Grade Separation Program

BACKGROUND

The State's Grade Separation Program (Program) is wrought with problems. The process is complex and time-consuming, and local authorities are concerned about its overall effectiveness. The Program was established in 1957 to assist local agencies with the high cost of separating grade crossings, and since 1974, the state's annual budget includes \$15 million for funding these projects.

A grade separation is an intersection of railroad track with any type of highway or pathway used by vehicles and/or pedestrians where either the highway or the railroad track crosses over or under the other at different elevations, typically using a bridge structure. The California Public Utilities Commission is required to establish a priority list of nominated projects most urgently in need of separation or alteration, and the California Transportation Commission has the responsibility for allocating the funds to qualified projects from the prioritization list.

In September of 2007, at the request of Assemblymembers Galgiani and Benoit, the Bureau of State Audits released an audit report of the Grade Separation Program, and concluded that the Program is not adequately funded to address the statewide demand for project assistance and that local agencies participation is limited due to the complicated nature of the process.

Further, Proposition 1B, the bond measure approved by the California voters in November 2006, will provide for \$250 million to improve railroad safety, and from that a one-time \$150 million will be available for allocation under the existing Grade Separation Program process.

Attempts to legislatively increase the annual budget of the Program have failed twice in the last seven years. With the current budget deficit, it is not an option at this time to pursue legislation to increase the Program's budget; however, it is absolutely necessary to fine-tune the Program now so the Bond money allocated through existing Program guidelines can be expedited to build as many grade separation projects as possible.

PURPOSE OF BILL

Assembly Bill (AB) 660 will streamline the Grade Separation Program by eliminating confusing and/or obsolete requirements, which will make the Program simpler to administer and easier for local agencies to understand. AB 660 seeks to improve the Program so that it *works* – grade separation projects will actually get built.

AMENDMENTS

Amendments were taken by the Assembly Appropriations Committee that addressed fiscal concerns and removed all references to allocation increases and budgetary pressure, which was never the author's intent. The amendments reverted those affected sections back to existing law. Amendments taken in Senate Transportation and Housing Committee narrowly define the "cost of a project" and reverse the repealing of Streets and Highways Code section 2460.7. Amendments taken on the Floor address concerns that a project's cost was too narrowly defined and could potentially impact local agencies' ability to obtain state funding for such projects.

SUPPORT

Merced County Board of Supervisors
Southern California Contractor Association
American Federation of State, County and Municipal Employees (AFSCME)
California Public Utilities Commission
Alameda Corridor-East Construction Authority
California State Association of Counties
League of California Cities

OPPOSITION

None on file.

VOTES

Assembly Transportation Committee 14-0
Assembly Appropriations Committee 16-0
Assembly Floor 74-2
Senate Transportation and Housing Committee 11-1
Senate Appropriations Committee 28-8
Senate Floor 36-1
Assembly Transportation Committee 14-0
Assembly Floor Concurrence 73-3

**Budget Update**

Monday, September 22, 2008 10:26 PM

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Budget Info.

To see a copy of the Budget, please visit the following website:
<http://www.assembly.ca.gov/acs/newcomframeset.asp?committee=4>

Click on:

Budget Committee Report

2008 Report

Final Compromise Budget Report

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SACRAMENTO MEETINGS
Monday, September 22, 2008

10:00 AM	Bob Alvarez Senator Dean Florez office Capitol Building, Room 5061 Sacramento, CA 95814 (916) 651-4016
10:30 AM	Chuck Hahn Senator Dave Cogdill's office Capitol Building, Room 3048 Sacramento, CA 95814 (916) 307-8749
11:00 AM	Megan Taylor Assemblymember Anna Caballero's office Capitol Building, Room 3132 Sacramento, CA 95814 (916) 319-2028
11:30 AM	Les Spahnn Assemblyman Juan Arambula's office Capitol Building, Room 2141 Sacramento, CA 95814 (916) 319-2031
12:00 Noon	Lunch with Esperanza Ross @ Frank Fat's
1:00 PM	
1:30 PM	Curt Augustine Governor's Office Capitol Building Sacramento, CA 95814 (916) 445-4341

2:00 PM

Deborah Gonzalez, Policy Director
Office of Assemblyman Mike Villines
Capitol Building, Room 3104
Sacramento, CA 95814
(916) 319-2029

2:30 PM

Brenda Quintana, Dir. Of Local Govrn.
& Community Relations
Governor's Office
Capitol Building
Sacramento, CA 95814
(916) 324-4497

3:15 PM

Victoria Grajek, Legislative Director
Office of Assmemblymember Cathleen Galgiani
Capitol Building, Room 2170
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(916) 319-2017

(9/18/08)

**Sacramento Update**

Friday, September 26, 2008 6:45 PM

From: "steve samuelian" <ca-consulting@sbcglobal.net>**To:** "Carrol Terrazas" <carrol.ca-consult@sbcglobal.net>

Earlier this week (Monday) I met with the following individuals in Sacramento:

Senator Florez's Chief of Staff Bob Alvarez

Senator Cogdill's Chief of Staff Chuck Hahn

Assemblywoman Caballero's Chief of Staff Megan Taylor

Assemblyman Arambula's Budget Consultant Les Spahn

The Governor's Deputy Legislative Secretary for Transportation and Housing Curt Augustine

Assemblyman Villines Legislative Director Deborah Gonzalez

Special Advisor to the Governor Brenda Quintana

Assemblywoman Cathleen Galgiani's Legislative Director Victoria Grajek

Topics of each meeting varied from Prop. 84 parks and rec. money; medi-cal rate reimbursements for small and rural hospitals, support for a veto of SB 974 (container fee bill); support for grade separation funding; support for the Reedley/Kings Canyon transportation project; state and local partnership funding for transportation; preserving prop. 42 and 1A funding; stop gap funding for child care centers if there is another budget impasse, and other key issues.

Discussions have already begun on next year's budget and we must re-double our efforts to make sure our voices are heard on important issues.

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COG - Sept. Report

Tuesday, September 23, 2008 6:33 PM

From: "steve samuelli" <ca-consulting@sbcglobal.net>

California Consulting, LLC

September 2008

COG Legislative Report

- **State and Local Partnership:** See attached written report dated Wednesday September 10, 2008 and marked "confidential." Our office continues to work closely with the Valley State Legislative Delegation and the Governor's Office on this crucial issue.
- **SB 974:** the port container fee bill by Sen. Lowenthal was voted by COG as the number one legislative priority of the year and given to our office. We have held no less than 6 meetings with Senator Lowenthal personally and his staff regarding this issue. Senator Lowenthal and his staff have always been cordial and have had an open door policy relative to meeting with our valley group. The Governor has until Sept. 30th to sign or veto this bill. **Please fax your opposition letters asking the Governor to veto the bill to fax #: (916) 445-4633**

We also have worked with the entire Valley legislative delegation, the Governor's Office, and senior officials at BTH Agency. The Administration most recently proposed amendments that (although they were not the exact amendments we proposed to the Senator) were fair to the Valley.

Unfortunately, Sen. Lowenthal has rejected these amendments. This bill has passed the Legislature and is in the Governor's Office. We are lobbying for a veto of the bill.

We have worked closely on the SB 974 issue with several organizations including the San Joaquin Valley Air Pollution Control District, California Partnership for the San Joaquin Valley Air Quality Working Group, the 8 Valley COG Directors and the 8 Valley COG's (Regional Policy Council).

- **AB 3034/High Speed Rail:** After intense negotiations and several amendments AB 3034 passed the Legislature and was the only bill signed by the Governor since the budget stalemate began. Assemblywoman Galgiani authored this bill and did a fantastic job working it through the Legislature. Our office worked with Ms. Galgiani and her staff very closely throughout this process.
- **Prop. 42 and Prop. 1A:** The most recent proposals from the Governor, the Republican and the Democrat leaderships do not include cuts to Prop. 42. Our office has worked diligently on preserving the Prop. 42 transportation funds this year and our State Legislative delegation has been very helpful. Working in conjunction with the Regional Policy Council (8 Valley COG's), it has been a strong team effort. At this point, we are cautiously optimistic that Prop. 42 will not be cut this year. We will remain vigilant and will continue to closely monitor this issue until the budget passes. Similarly, we believe the threat against Prop. 1A has been pushed back. Heavy lobbying by several entities against the Prop. 1A "take away" have proven helpful and sent the message to the Capitol that local governments will not tolerate such action.

- **RDA:** There are at least three proposals to cut funding from the RDA's. The Governor and Democrat Senate President Pro-Tem Don Perata have proposed to cut RDA funds \$225 million for 3 years, totaling \$675 million. This is a cut on the 5% of the unencumbered funds. The Governor released this proposal in his "August Revise." The Republican proposal is to cut the same 5% of the unencumbered funds (\$675 million over three years) plus a one time cut from the 20% low and moderate income set aside which would total an additional \$349 million cut. Our office has engaged in lobbying the Governor's Office and the Legislative Leadership to let them know cuts to RDA's can be hurtful to cities.
- **Overview of Local Government Bills:** We have enclosed the Sept. 2, 2008 memo from the Senate Local Government Committee outlining the end of session status of bills impacting local government. We hope you find this information helpful.
- **Prop. 84 Parks Money:** We have continued to track the Prop. 84 \$400 million for Parks and Recreation. AB 31 has now passed the Legislature and is awaiting signature (hopefully) from the Governor. Mr. Arambula was instrumental in amending this bill to assist the Valley and our office has worked closely with his office on this issue for more than one year.
- **"One Voice":** Our Office organized the annual "One Voice" trip to Sacramento for Fresno COG. After numerous meetings to set the list of priority issues, the agenda, and other details the trip culminated in a two day visit to the Capitol. The two-day visit included personal meetings with 23 elected and appointed policymakers in Sacramento. The COG "One Voice" trip was attended by more than 30 elected and appointed leaders from throughout Fresno County.
- **"Valley Voices":** California Consulting organized a trip to Sacramento for all 8 San Joaquin Valley COG's under the auspices of the Regional Policy Council. See attached report. The one-day trip was attended by more than 30 elected and appointed officials from across the Valley and included meetings with 11 key policymakers in Sacramento.
- **Medi-Cal Rate Reimbursement Cut:** We have worked diligently with the Cities of Reedley, Kingsburg, Parlier, Selma, Sanger, Orange Cove, and Sierra Kings Hospital to oppose this cut. Our efforts have included a one-day trip to Sacramento that included meetings with several policymakers including the Governor's Deputy Cabinet Secretary for Health Care Richard Figueroa, The Speaker's Health Care Legislative Advisor, and Assemblyman Alan Nakanishi the Vice-Chair of the Assembly Health Committee. See attached schedule. A few weeks later we also visited Sacramento and held a personal meeting with Assemblyman Mervyn Dymally (D-Los Angeles) the Chairman of the Assembly Health Committee. We have continually contacted the Governor's Office, Legislative leadership, and our Valley State Legislative Delegation as well as key Agency leaders at the Department of Health Care Services. We have informed them that any cut to Medi-Cal reimbursement rates would be devastating to the Valley small rural health clinics and hospitals and the vulnerable populations that are served by these facilities. Two of the "Big 5" leaders, Mr. Villines and Mr. Cogdill have both been very responsive and supportive of this effort to assist the local rural hospitals. Mr. Arambula has also done a wonderful job on this issue. We continue to be in contact with the Valley State Legislative Delegation regarding this matter.

Oct 14 2008 9:41AM

CAL CONSULTING

5592440804

p.6

- **Child Care:** At the request of Chairman Rodriguez, our office convened a conference call with the San Joaquin Valley state legislative delegation to discuss the closing of childcare centers in the Valley. Participants on the conference call included representatives of Senator Denham, Senator Florez, and Assemblyman Villines.

We have followed up by discussing the issue with First 5 California in Sacramento and are now in the process of scheduling a conference call with the First 5 Association of California. We continue to be in contact with the Valley State Legislative Delegation regarding this issue.

Other major issues we have been involved with during the last year are: TCIF, CMIA, monitoring of several key bills including AB 2522, SB 1507, AB 2342, Grade Separation issue, etc.



Greatest Hits Memo (Final, 2008)

Wednesday, October 8, 2008 3:44 PM

From: "Carrol Terrazas" <carrol.ca-consult@sbcglobal.net>

To: "Carrol Terrazas" <Carrol.ca-consult@sbcglobal.net>

Attached is a memo from the Senate Local Government Committee with an update on bills that came through that Committee this year.

Steve Samuelian

Manager

California Consulting, LLC

Central Valley Office

1530 E. Shaw Avenue, Suite 114

Fresno, CA 93710

phone 559-244-0801

fax 559-244-0804

Sacramento Office

Wells Fargo Center

400 Capitol Mall, Suite 1850

Sacramento, CA 95814

ca-consulting@sbcglobal.net

Senate Committee on Local Government
Senator Gloria Negrete McLeod, Chair
State Capitol, Sacramento, California 95814
(916) 651-4115
www.sen.ca.gov/locgov

October 6, 2008

TO: People Interested in Local Government, Public Finance, and Land Use
FROM: Senator Gloria Negrete McLeod
SUBJECT: Local Government Bills During 2008

Now that Governor Schwarzenegger has finished signing and vetoing bills, I want you to know about some of the more interesting bills affecting public finance, land use, and local governance that came to the Committee this year. Urgency bills take effect when they are chaptered; regular bills will take effect on January 1, 2009.

The Governor vetoed about 35% of the bills that legislators sent him this year. To read his veto messages and to retrieve copies of the bills that he signed, please use the Legislature's public website: www.leginfo.ca.gov

LOCAL FINANCE & INFRASTRUCTURE

SB 1293 (Negrete McLeod) imposes additional transparency and accountability requirements on public agencies that provide conduit financing. Status: Vetoed.

SB 1335 (Negrete McLeod) eliminates the voter approval for the City of Colton to set up an Infrastructure Financing District and issue IFD bonds in the Agua Mansa area. Status: Vetoed.

SCA 12 (Torlakson) adds stormwater fees to Proposition 218's voter approval exemption for sewer, water, and garbage property-related fees. Status: Amended and used for a different topic; no longer relevant to stormwater fees.

AB 697 (Hancock) prohibits cities and counties from making specified agreements that divert other communities' Bradley-Burns sales tax revenues. Status: Vetoed.

AB 811 (Levine) authorizes contractual assessment financing for energy efficiency and renewable energy improvements on real property. Status: Signed; Chapter 159, Statutes of 2008.

AB 938 (Calderon) declares legislative intent to provide for water quality committees to control pollution from stormwater and urban runoff. Status: Died in the Senate Rules Committee.

AB 1170 (Krekorian) imposes deadlines on deciding state mandate test claims and completing audits of state mandate reimbursement claims. Status: Died in the Senate Appropriations Committee.

AB 1709 (Hancock) authorizes Mello-Roos Act financing for energy efficiency and renewable energy improvements on any real property. Status: Vetoed.

AB 1836 (Feuer) eliminates the voter approval to set up Infrastructure Financing Districts (IFDs) and issue IFD bonds for public transit facilities. Status: Failed in the Senate Local Government Committee.

AB 2367 (Leno) allows San Francisco officials to use an Infrastructure Financing District (IFD) to redevelop their Port properties, with 20% of the property tax increment revenues set-aside for waterfront restoration projects. Status: Died in the Senate Appropriations Committee.

LOCAL POWERS & GOVERNANCE

SB 76 (Florez) requires school district officials to receive the same ethics training as other local government officials. Status: Died in the Assembly Appropriations Committee.

SB 1103 (Cedillo) requires local officials to report their economic development subsidies. Status: Amended and used for a different topic; no longer relevant to local subsidies.

SB 1191 (Alquist) allows Community Services Districts (CSDs) to provide broadband facilities and services until private companies are ready, willing, and able. Status: Signed; Chapter 70, Statutes of 2008.

SB 1061, SB 1062, and SB 1063 (Senate Local Government Committee) are the annual Validating Acts. Status: The Governor signed SB 1061 as Chapter 10 (urgency), SB 1062 (urgency) as Chapter 614 (urgency), and SB 1063 as Chapter 7; all Statutes of 2008.

SB 1124 (Senate Local Government Committee) is the annual Local Government Omnibus Act, making 15 relatively minor and noncontroversial changes to the state laws affecting local agencies' powers and duties. Status: Signed; Chapter 709, Statutes of 2008.

SB 1458 (Senate Local Government Committee) rewrites the County Service Area Law. Status: Signed; Chapter 158, Statutes of 2008.

SB 1519 (Yee) requires cities and counties to investigate complaints against unlicensed taxi cabs, requires taxi companies to include permit numbers in advertising, and allows local officials to enforce taxi licensing by requiring telephone companies to stop serving unlicensed taxi companies. Status: Signed; Chapter 721, Statutes of 2008.

SB 1732 (Romero) clarifies the Brown Act's prohibition on serial meetings and prohibits local agencies from discriminating when providing writings to their legislative bodies. Status: Signed; Chapter 63, Statutes of 2008.

AB 642 (Wolk) allows all cities to use the design-build contracting method, and allows all cities, counties, and special districts to use design-build contracting for 20 wastewater, solid waste, and water recycling projects. Status: Signed; Chapter 314, Statutes of 2008.

AB 1400 (Hayashi) prohibits water districts' general managers from being the districts' general counsels. Status: Amended and used for a different topic; no longer relevant to special districts.

AB 1634 (Levine) requires the owners of unspayed and unneutered dogs and cats to pay graduated civil penalties if local animal control agencies get complaints. Status: Failed on the Senate Floor.

AB 2510 (La Malfa) allows smaller special districts to use less formal financial reports instead of annual audits. Status: Signed; Chapter 244, Statutes of 2008.

AB 2588 (Calderon) clarifies that state laws don't preclude cities and counties from imposing public safety regulations on the time, place, and manner of mobile food vendors. Status: Signed; Chapter 139, Statutes of 2008.

AB 2610 (Davis) prohibits donation collection boxes without a local permit, but doesn't preclude cities and counties from imposing regulations on the place and use of collection boxes. Status: Vetoed.

LAND USE PLANNING & DEVELOPMENT

* **SB 375 (Steinberg)** aligns planning for housing, land use, transportation, and greenhouse gas emissions for metropolitan areas. Status: Signed; Chapter 728, Statutes of 2008.

* **SB 732 (Steinberg)** allocates money from Proposition 84, including loans for revising local general plans and improving regional planning. Status: Signed; Chapter 728, Statutes of 2008.

SB 821 (Kuehl) requires the California Research Bureau to report on the implementation of the state law that requires cities and counties to impose conditions for water availability on larger subdivisions. Status: Died in the Assembly Appropriations Committee.

SB 1118 (Negrete McLeod) restores the requirement that every county with a public use airport must have an Airport Land Use Commission, with exceptions. Status: Failed on the Assembly Floor.

SB 1185 (Lowenthal) extends the life of existing tentative subdivision maps by one year and allows local officials to extend tentative maps by an additional year. Status: Signed; Chapter 124, Statutes of 2008.

SB 1237 (Cox) amends the Subdivision Map Act's requirements for remainder parcels, property dedications, and deadlines for lot line adjustments. Status: Vetoed.

* **SB 1500 (Kehoe)** prohibits county supervisors from approving proposed development in a State Responsibility Area if state officials determine that local structural fire protection services are not available. Status: Died on the Assembly Floor.

AB 1221 (Ma) expands the definition of a transit village planning district from ¼ mile to ½ mile around a transit facility, and requires an Infrastructure Financing District (IFD) that finances public transit facilities in a transit village to set-aside 20% of the property tax increment revenues for affordable housing. Status: Vetoed.

AB 2447 (Jones) prohibits county supervisors from approving proposed subdivisions in fire-prone areas unless they meet fire safety requirements. Status: Vetoed.

AB 2921 (Laird) amends the procedures for rescinding Williamson Act contracts and dealing with material breaches of Williamson Act contracts. Status: Signed; Chapter 503, Statutes of 2008.

REDEVELOPMENT

SB 360 (Negrete McLeod) requires county auditors to calculate and pay redevelopment agencies' mandatory property tax increment pass-through payments. Status: Vetoed.

SB 1689 (Lowenthal) requires redevelopment agencies to respond to audits of their affordable housing programs and allows the State Controller to review the quality of redevelopment audits. Status: Vetoed.

AB 887 (De La Torre) requires redevelopment officials to give more information to property owners who are subject to condemnation and to pay higher benefits when using eminent domain to condemn small businesses. Status: Amended and used for a different topic; no longer relevant to eminent domain.

* **AB 1389 (Assembly Budget Committee)** shifts \$350 million in property tax increment revenues from redevelopment agencies to schools. Status: Chapter 751, Statutes of 2008.

LAFCOs & BOUNDARY CHANGES

SB 301 (Romero) makes permanent the formulas for city incorporations and annexations to receive extra Vehicle License Fee revenues. Status: Signed; Chapter 375, Statutes of 2008

AB 1263 (Caballero) clarifies the statutory requirements for LAFCOs' fees and charges and for annexing unincorporated islands. Status: Signed; Chapter 64, Statutes of 2008

* **AB 1998 (Silva)** makes contributions and spending on LAFCO proposals subject to the Political Reform Act's reporting and enforcement requirements. Status: Signed; Chapter 192, Statutes of 2008.

AB 2484 (Caballero) spells out how LAFCOs act on special districts' requests to use their latent powers and to divest themselves of powers. Status: Signed; Chapter 196, Statutes of 2008.

AB 3047 (Assembly Local Government Committee) makes nine changes to the state laws affecting LAFCOs. Status: Signed; Chapter 68, Statutes of 2008.

* This bill did not come to the Senate Local Government Committee.



The best way to get copies of these bills, their analyses, histories, voting records, and any veto messages is from the California Legislature's official website: www.leginfo.ca.gov

More information about the Senate Local Government Committee's work, including copies of the citizen's guides, is available at www.sen.ca.gov/locgov



State Superintendent of Public Instruction Jack O'Connell

Tuesday, September 16, 2008 11:41 PM

From: "steve samuelian" <ca-consulting@sbcglobal.net>

To: "Carrol Terrazas" <carrol.ca-consult@sbcglobal.net>

On September 16, 2008 Kings Canyon Unified School District and California Consulting, LLC hosted a luncheon featuring special guest State Superintendent of Public Instruction Jack O'Connell.

The event was held at the Downtown Club in Fresno and attended by more than 60 Superintendents, local elected officials and community leaders.

Kings Canyon Unified deserves special thanks for their role as a Co-Host.

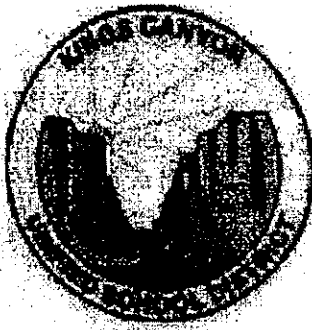
Fresno County Board of Supervisors Chairman Henry Perea, Clovis Mayor Bob Whalen, Orange Cove Mayor Victor Lopez, Kerman Mayor and Fresno COG Chairman Trinidad Rodriguez, Fresno Councilwoman Cynthia Sterling, California Partnership for the San Joaquin Valley leader Peter Weber, Fresno County Superintendent of Schools Superintendent Larry Powell, and representatives of Congressman Jim Costa, Senator Dean Florez, Assemblyman Juan Arambula, and Mayor Alan Autry's Education Office were just a few of the community leaders present at the luncheon.

Kings Canyon Unified Superintendent Juan Garza served as the Master of Ceremonies and gave welcoming remarks. Kirk Hunter, CEO of the Southwest Transportation Agency spoke articulately about school transportation needs and California Consulting Owner Steve Samuelian introduced State Superintendent O'Connell.

Mr. O'Connell touched on several key issues including the state budget, test scores, and achievements at the California Department of Education that he oversees.

California Consulting, LLC routinely hosts similar events in the San Joaquin Valley as a method of connecting the Valley with Sacramento. At each event, a key elected or appointed official from the Capitol is brought down to the Valley to share, listen, and hear feedback from Valley leaders. Past featured guests include the Governor's Cabinet Secretary Dan Dunmoyer, Cal-TRANS State Director Will Kempton, and the Chief Deputy Director of the California Department of Parks and Recreation Sedrick Mitchell among others.

Steve Samuelian
Manager
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1530 E. Shaw Avenue, Suite 114
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**THE KINGS CANYON UNIFIED
SCHOOL DISTRICT**
and
CALIFORNIA CONSULTING, LLC

Would like to extend an invitation to attend a Roundtable
Luncheon Discussion, with Special Guest:

JACK O'CONNELL

California State Superintendent of Public Instruction

DATE: Tuesday, September 16, 2008

TIME: 12:00 - 1:30 p.m.

LOCATION: The Downtown Club
2120 Kern Street
Fresno, CA 93721

PLEASE RSVP TO: Elma Vela, KCUSD
(559) 305-7001
email to: vela-e@kcusd.com

RSVP DEADLINE: Tuesday, September 9, 2008

INVITATION ONLY

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2009 One Voice
Proposed Projects
Updated: 10/17/2008

2008 Finals	Name of Project	Project Description	Project Location	Total Request	Applicant	Contact Person/Presenter	Presentation Time
✓	State Route 180 - Temperance to Academy Ave.	Completion of construction of the segment of SR 180 from Temperance to Academy	Southeast Fresno County	\$3,000,000	Fresno COG (City of Sanger)	John F. Mulligan 876-6300 X1210 - jmulligan@ci.sanger.ca.us	1:20
✓	Highway 269 Bridge Project	Build a 500 foot bridge across the Arroyo Pasajero Creek	City of Huron	\$1,500,000	Fresno COG (I-5 Business Dev. Corridor)	Richard Fosse - 855-6850, ref12@fresno.com	1:30
✓	Golden State Corridor Ec. Dev. Infrastructure Improvements	Roadway rehab., improvements and enhancements to facilitate economic development.	G.S.Blvd. through Kingsburg, Selma, Fowler, and portions of Fresno Co.	\$3,000,000	Fresno COG (Fresno County Public Works)	Lynn Gorman, 262-4091, lgorman@co.fresno.ca.us Fowler: Randy Deaver 834-3113 Kingsburg: Don Pauley 897-5821 Selma DB Heusser 891-2200	1:40
✓	Recycled Water System Infrastructure System - Phase D	Complete build-out of main water transmission lines. Developed in 5 phases - Total Cost - \$35M	City of Clovis	\$1,500,000 - Phase D	City of Clovis	Kathy Millison 324-2074, kathym@cityofclovis.com	1:50
✓	Veteran's Boulevard	Diagonal connection between Herndon Ave. and Grantland in NW Fresno	NW area of City of Fresno	\$3,000,000	City of Fresno Public Works	Bruce Rudd 621-7770 bruce.rudd@fresno.gov	2:00
✓	Manning Avenue Bridge Rehabilitation and Reconstruction.	Manning Avenue Bridge Rehabilitation and Reconstruction.	Manning Avenue entrance to Reedley over the Kings River	\$500,000 FY2009/10 for PE & RW; \$3,000,000 FY2010/11 Construction	City of Reedley Public Works	Rocky Rogers - 637-4200 ext. 213, rocky.rogers@reedley.com Dana Ritschel dana.ritschel@reedley.com	2:10
✓	NEVER GIVE UP - Fresno County Gang Prevention Initiative	Institute first step of countywide Gang Prevention Initiative proposing to increase concentration of fluoride ions in drinking water to reduce incidence of tooth decay	Cities and unincorporated areas of Fresno County, CA	\$3,000,000 OVER 3 YEARS	Fresno County	Jeanette Ishii - 488-1710 jishii@co.fresno.ca.us	2:20
	Fresno County Fluoridation Project		County of Fresno	\$1,000,000	First 5 Fresno County	Rafael Trujillo: Kendra Rogers 241- 7444, 241-6516 rtrujillo@first5fresno.org; krorgers@first5fresno.org	2:30
	Regional Data Interoperability Project	provide true interoperability between regional law enforcement, ambulance and fire by adding data compilation	County of Fresno	\$3,000,000- could be tailored to spread across additional years	County of Fresno - Administrative office/ Information Technology Services Dept.	Gary Osmondson 494-3255 gosmondson@co.fresno.ca.us	2:40

2009 One Voice
Proposed Projects
Updated: 10/17/2009

2008 Finals	Name of Project	Project Description	Project Location	Total Request	Applicant	Contact Person/Presenter	Presentation Time
√	Fresno Yosemite International Airport	Establish FYI as an international Port of Entry (POE) with the US Dept. of Homeland Security, Customs and Border Protection Agency (CBP)	Fresno Yosemite International Airport	\$0	City of Fresno - Dept. of Airports	Russell Widmar - 621-4600 - russ.widmar@fresno.gov	2:50
√	Air Quality Enterprise/Empowerment Zone Designation	establishment of new designation	County of Fresno	\$0	County of Fresno - Board of Supervisors	Jeanette Ishii - 488-1710 jishii@co.fresno.ca.us	3:00
	FHA SAFETEAU-LU Reauthorization	State Route 99 Improvements	County of Fresno	??	County of Fresno - Board of Supervisors	Jeanette Ishii - 488-1710 jishii@co.fresno.ca.us	3:10
	FHA SAFETEAU-LU Reauthorization	State Route 180 Improvements	County of Fresno	??	County of Fresno - Board of Supervisors	Jeanette Ishii - 488-1710 jishii@co.fresno.ca.us	3:20
	FHA SAFETEAU-LU Reauthorization	Rural Road Safety and Rehabilitation	County of Fresno	??	County of Fresno - Board of Supervisors	Jeanette Ishii - 488-1710 jishii@co.fresno.ca.us	3:30
	FHA SAFETEAU-LU Reauthorization	Priorities and Principles for a New Authorization of SAFETEAU-LU - CSAC	County of Fresno	??	County of Fresno - Board of Supervisors	Jeanette Ishii - 488-1710 jishii@co.fresno.ca.us	3:40
√	- projects that were on 2008 priority list						



CITY OF CLOVIS

CITY HALL • 1033 FIFTH STREET • CLOVIS, CA 93612

October 9, 2008

Council of Fresno County Governments
2035 Tulare Street, Suite 201
Fresno, CA 93721

Fresno County Transportation Authority
2220 Tulare Street, Suite 411
Fresno, CA 93721

Re: Regional Transportation Mitigation Fee and Implementation Issues

Dear COG Boardmembers and FCTA Boardmembers:

As you proceed with deliberations to reach a consensus for approval of an appropriate option for the Regional Transportation Mitigation Fee (RTMF), I wish to call your attention to an important issue that will need to be resolved immediately after decision on the fee and prior to the anticipated enactment date of January 1, 2009.

The issue is how the agencies, collectively, will deal with vesting maps that have been approved by the agencies prior to the adoption of this new fee. Generally, the vesting privilege is used to "lock" in place the requirement to pay only those fees in place at the time of approval of the vesting and for a two year period. At the time of expiration of the two years, the agency may then require that the applicant become subject to any additional fees that may have been enacted during that period.

The issue is that such a "lock" on the fees means that for up to a two year period after enactment of the fee, it is possible that thousands of building permits may be issued by the agencies for existing vesting maps and those permits will not be subject to collection of the RTMF. This would result in the loss of millions of dollars to the RTMF fund and could further impact the ability to deliver the Tier 1 projects of the Measure C Regional Program in a timely fashion.

The technical staffs of your respective agencies are aware of this and have been discussing the issue over recent months. But, the agencies have not yet come to a resolve concerning an equitable way to implement the RTMF in order to avoid the disparity of contribution to the RTMF between the agencies and to temper the competitive disadvantage it represents to builders active throughout Fresno County and its cities.

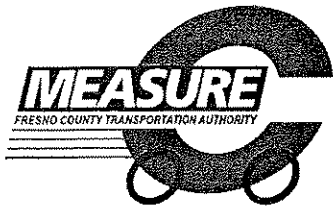
I respectfully request that each of your Boards consider taking action this evening, after resolution of the RTMF matter, to direct your respective staffs to resolve this matter in order to have a fair manner of administration of the RTMF as anticipated on January 1, 2009.

Sincerely,



Kathy Millison
City Manager

c: Clovis Mayor and City Council
Tony Boren, COG Executive Director
Ron Peterson, FCTA Executive Director



Ron Peterson
Executive Director

TO: Fresno County Transportation Authority

FROM: Ron Peterson, Executive Director

DATE: October 15, 2008

SUBJECT: Indemnification Agreement Between the Fresno County Transportation Authority and Each City Within Fresno County and with Fresno County Regarding Indemnification of Legal Cost Incurred as a Result of Enactment of Ordinances Implementing the Requirements Imposed by the Measure C Extension Regional Transportation Mitigation Fee Program.

RECOMMENDATION: Staff recommends that the Board authorize the Chairman to execute an Indemnification Agreement between the Fresno County Transportation Authority and each city within Fresno County and with Fresno County regarding indemnification of legal cost incurred as a result of enactment of ordinances implementing the requirements imposed by the Measure C Extension Regional Transportation Mitigation Fee Program at such time as the Agreement has been reviewed and approved by all parties including Fresno County Transportation Authority staff and legal counsel.

DISCUSSION: Pursuant to discussion and direction received at the October 10th joint Board meeting, staff has drafted a proposed indemnification agreement for Board review and comment. The draft agreement was distributed to Board members on October 14, 2008 and a copy is also at your desk today. Staff is requesting that the Board provide comments regarding the proposed agreement and further that the Board authorize the Chairman to execute the agreement after review and approval by all parties.

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1 WHEREAS, fairness and sound fiscal policy require that the
2 AUTHORITY should bear the burden of the liability for potential injuries and the
3 expense of litigation arising out of the CITY's enactment of the RTMF in furtherance of
4 the Measure C Regional Transportation Plan; and

5 WHEREAS, AUTHORITY and CITY mutually desire to enter into this
6 Indemnification Agreement, by which AUTHORITY shall indemnify, (at CITY's request)
7 defend, save and hold CITY harmless, in order that CITY shall bear no fiscal or
8 financial burden whatsoever resulting from any litigation challenging the CITY's
9 enactment of the RTMF.

10 NOW, THEREFORE, based on good and valuable consideration, receipt
11 of which is hereby acknowledged, the parties agree:

12 1. HOLD HARMLESS.

13 The AUTHORITY hereby agrees to save, indemnify, hold harmless and,
14 at CITY's request, defend CITY, its officers, agents, and employees, the Fresno City
15 Council , each member of the Fresno City Council, and the Fresno City Mayor, from
16 and against all expenses, demands, liabilities, claims, costs (including but not limited
17 to court costs and attorney's fees), or damages of any nature whatsoever occurring or
18 resulting to CITY, including an award of attorney's fees and costs to the person,
19 organization or entity bringing the cause of action, or their officers, agents, and
20 employees, arising, from resulting from, or in connection with any CITY action to enact
21 the Fresno COG and FCTA supplied RTMF ordinance and related CEQA actions only.

22 The AUTHORITY shall pay all reasonable attorneys' fees and costs
23 related to the representation of the CITY in any action brought against the CITY,
24 except for costs incurred by the AUTHORITY in defense of any action, as provided in
25 section 3 of this agreement.

26 2. NOTIFICATIONS AND COOPERATION BY AUTHORITY.

27 CITY shall Notify AUTHORITY within ten (10) AUTHORITY business days of its
28 receipt of any demand, claim, action, proceeding, or litigation in which CITY is to be

1 indemnified and held harmless by AUTHORITY. If CITY requests that AUTHORITY
2 defend CITY, it shall notify AUTHORITY in writing within ten (10) business days of its
3 receipt of any such demand, claim, action, proceeding, or litigation. AUTHORITY shall
4 cooperate fully in such defense.

5 3. AUTHORITY PARTICIPATION IN DEFENSE.

6 Nothing contained herein shall prohibit AUTHORITY, in its sole discretion, from
7 participating in the defense of any demand, claim, action, proceeding, or litigation over
8 and above representation by outside counsel, or from participating in the defense of
9 any demand, claim, action, proceeding, or litigation. If AUTHORITY elects to also
10 defend, it shall do so in good faith and AUTHORITY shall bear its own cost. In no
11 event shall AUTHORITY's participation in the defense of any demand, claim, action,
12 proceeding, or litigation affect the obligations imposed upon AUTHORITY in section 1
13 of this Agreement.

14 4. TERMINATION OF AGREEMENT.

15 (a) This Indemnification Agreement may be terminated upon the
16 parties, by their express, mutual, written consent agree to terminate this
17 Indemnification Agreement, which consent shall not be unreasonably withheld.

18 5. SEVERABILITY.

19 If any provision of this Agreement is determined to be invalid in a final judgment
20 by a court of competent jurisdiction, each and every other provision hereof shall
21 remain in full force and effect.

22 6. CONSTRUCTION OF CONTRACT.

23 The parties hereby acknowledge that they and their respective counsel have
24 cooperated in the drafting and preparation of this agreement, for which reason this
25 agreement shall not be construed against any party as the drafter thereof.

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IN WITNESS WHEREOF, AUTHORITY and CITY hereby execute this Agreement.

FRESNO COUNTY TRANSPORTATION
AUTHORITY

By: _____
Harry Armstrong, Chairman

CITY OF FRESNO

By: _____

REVIEWED AND RECOMMENDED
FOR APPROVAL

By _____
Ron Peterson, Executive Director

APPROVED AS TO LEGAL FORM:
JANELLE E. KELLEY,
COUNTY COUNSEL

By _____
Kevin B. Briggs,
Chief Deputy County Counsel

California Transit Assistance Fund (CTAF)

The Department of Homeland security has published guidelines for 2008/09 California Transit Assistance Fund (CTAF) apportionments of \$821,939. The process is similar to last years. Transit Operators are encouraged to click on the link for application guidance.

http://www.ohs.ca.gov/grants_mass_transit_2008.html

SCO calculates and distributes the section 8879.55(a3) funding based on the Section 99314 revenue formula. The Section 8879.55(a2) funding is distributed by the MPO's per Section 99313 by population. The sections must be itemized when combining funds on the same project, however applications for 8879.55(a2) must be submitted through the MPO.

Eligible activities include:

A) A capital project that provides increased protection against a security or safety threat, including, but not limited to the following:

- Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures or other transit facilities and equipment.
- Explosive device mitigation and remediation equipment.
- Chemical, biological, radiological and nuclear explosives search, rescue or response equipment.
- Interoperable communications equipment.
- The installation of fencing barriers, gates or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures or other transit facilities and equipment.
- Other security related projects approved by OHS.

B) A capital project that increases the capacity of transit operators to prepare for disaster response transportation systems that can move people, goods, emergency personnel and equipment in the aftermath of disaster.

2008/09

Transit System Safety, Security, and Disaster Response California Transit Assistance Fund (CTAF) APPORTIONMENT TO TRANSIT AGENCIES

15-Oct-08

PUC 8879.55(a)(2) POPULATION 723,461
PUC 8879.55 (a)(3) OPERATOR 98,478

8879.55(a)(2) Restated
for County Share 821,939

2008/09 Fund Estimate Per State Controller

MEMBER	CENSUS POPULATION 01/01/08	PERCENT	GROSS AMOUNT AVAILABLE	NET FOR OPERATOR 8879.55(a)(3)	NET FOR POPULATION 8879.55(a)(2)	Clovis Transit	FAX	FCRTA
Clovis	94,278	10.13%	74,168	914	73,254	73,254		14,812
Coalinga	19,063	2.05%	14,812		14,812			5,292
Firebaugh	6,811	0.73%	5,292		5,292			4,329
Fowler	5,572	0.60%	4,329		4,329			
Fresno City	486,116	52.21%	470,959	93,248	377,711		377,711	5,869
Huron	7,553	0.81%	5,869		5,869			10,783
Kerman	13,878	1.49%	10,783		10,783			8,747
Kingsburg	11,257	1.21%	8,747		8,747			7,604
Mendota	9,787	1.05%	7,604		7,604			8,371
Orange Cove	10,774	1.16%	8,371		8,371			10,353
Parlier	13,325	1.43%	10,353		10,353			19,879
Reedley	25,584	2.75%	19,879		19,879			19,461
Sanger	25,046	2.69%	19,461		19,461			3,513
San Joaquin	4,521	0.49%	3,513		3,513			18,092
Selma	23,284	2.50%	18,092		18,092			135,391 *
Fresno Co.	174,249	18.69%	135,391		135,391	1,067	104,804	29,520
FCRTA			4,316	4,316				
TOTALS	931,098	100.0%	821,939	98,478	723,461	74,321 914	482,515 93,248	166,625 4,316
			821,939	98,478	723,461	75,235	575,763	170,941
								723,461 98,478 821,939

*Basis - County contribution to Transit 2007/08

	LTF/STA	TSSDRA
Clovis	22,271	1,067
FAX	2,187,710	104,804
FCRTA	616,207	29,520
Total	2,826,188	135,391

2008/09 Public Transportation Modernization Improvement and Service Enhancement Account (PTMISEA)

The State Controllers Office (SCO) has released estimates for 2008/09 Public Transportation Modernization Improvement and Service Enhancement Account (PTMISEA) of \$4,629,137. In addition there is \$3,285,674 remaining of the 2007/08 apportionment for a total of \$7,914,811 to be claimed by transit agencies for eligible purposes. The apportionment and carry over balances by Transit Operator are included as an attachment.

SCO calculates and distributes the section 8879.55(a3) funding based on the Section 99314 revenue formula. The Section 8879.55(a2) funding is distributed by the MPO's per Section 99313 by population. The sections must be itemized when combining funds on the same project.

Eligible Projects are capital projects (or a minimum operable segment of a project) for the purposes of the following.

1. Rehabilitation, safety, or modernization improvements,
2. Capital service enhancement or expansion,
3. New Capital projects,
4. Bus rapid transit improvement, or
5. Rolling stock procurement, rehabilitation or replacement.

Applications may be submitted at any time for either apportionment year, however SCO only makes two payments per year. To receive funds in the mid January allocation, Caltrans must receive applications by November 30, 2008.

The current appropriation may be carried over for two years. There are also two years remaining on the 2007/08 carry over amounts, however there is no guarantee that the Legislature will not revise the guidelines. Transit agencies should immediately begin preparing a list of eligible projects to submit to Caltrans.

2008/09

**Public Transportation Modernization, Improvement
and Service Enhancement Account
APPROPRIATION TO TRANSIT AGENCIES**

10/15/08

PUC 8879.55(a)(2) POPULATION 4,074,511 (Distrubited by MPO)
PUC 8879.55 (a)(3) OPERATOR 554,626 (Distributed by SCO)

2008/09 Fund Estimate Per State Controller

4,629,137

MEMBER	CENSUS POPULATION 01/01/08	PERCENT	GROSS AMOUNT AVAILABLE	NET FOR OPERATOR 8879.55(a)(3)	NET FOR POPULATION 8879.55(a)(2)	Clovis Transit	FAX	FCRTA
Clovis	94,278	10.13%	417,713	5,150	412,563	417,713		83,420
Coalinga	19,063	2.05%	83,420		83,420			29,805
Firebaugh	6,811	0.73%	29,805		29,805			24,383
Fowler	5,572	0.60%	24,383		24,383			
Fresno City	486,116	52.21%	2,652,428	525,170	2,127,258		2,652,428	
Huron	7,553	0.81%	33,052		33,052			33,052
Kerman	13,878	1.49%	60,731		60,731			60,731
Kingsburg	11,257	1.21%	49,261		49,261			49,261
Mendota	9,787	1.05%	42,828		42,828			42,828
Orange Cove	10,774	1.16%	47,147		47,147			47,147
Parlier	13,325	1.43%	58,311		58,311			58,311
Reedley	25,584	2.75%	111,956		111,956			111,956
Sanger	25,046	2.69%	109,602		109,602			109,602
San Joaquin	4,521	0.49%	19,784		19,784			19,784
Selma	23,284	2.50%	101,891		101,891			101,891
Fresno Co.	174,249	18.69%	762,519		762,519 *	6,009	590,254	166,256
FCRTA			24,306	24,306				24,306

TOTALS	931,098	100.0%	4,629,137	554,626	4,074,511	423,722	3,242,682	962,733
			4,629,137	554,626	4,074,511			4,629,137

*Basis - County contribution to Transit 2007/08

	LTF/STA	PTMISEA
Clovis	22,271	6,009
FAX	2,187,710	590,255
FCRTA	616,207	166,256
Total	2,826,188	762,519

PTMISEABAL.XLS
10/15/2008

	8879.55(a)(3) PUC 99314 OP.	8879.55(a)(2) PUC 99313 Pop.	Total
Allocatons 2007/08	99314	99313	
Clovis	9,142	736,877	746,019
Fresno	932,263	4,842,649	5,774,912
FCRTA	43,148	1,653,394	1,696,542
	984,553	7,232,920	8,217,473

Projects 2007/08

Clovis			
Rolling Stock Replacement	9,142	726,115	735,257
FAX			
CNG Buses		2,500,000	2,500,000
FCRTA			
Mendota Transit Expansion		422,902	422,902
Rolling Stock Replacement		432,950	432,950
Electronic Fareboxes	43,148	376,852	420,000
Five Rolling Stock Replacment		377,542	377,542
Four CNG Pumps		43,148	43,148
Total FCRTA	43,148	1,653,394	1,696,542

Balance 2007/08

Clovis	0	10,762	10,762
Fresno	932,263	2,342,649	3,274,912
FCRTA	0	0	0
	932,263	2,353,411	3,285,674

	8879.55(a)(3) PUC 99314 OP.	8879.55(a)(2) PUC 99313 Pop.	Total
Allocatons 2008/09	99314	99313	
Clovis	5,150	418,572	423,722
Fresno	525,170	2,717,512	3,242,682
FCRTA	24,306	938,427	962,733
	554,626	4,074,511	4,629,137

Projects 2008/09

Clovis

FAX

FCRTA

Balance 2008/09

Clovis	5,150	429,334	434,484
Fresno	1,457,433	5,060,161	6,517,594
FCRTA	24,306	938,427	962,733
	1,486,889	6,427,922	7,914,811

